

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: McKenzie Dean	Team: Squad #14	CCRB Case #: 202006718	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 07/22/2020 4:20 PM, NA, 07/___/2020 12:00 AM	Location of Incident: outside of the NYPD Counterterrorism Base; over the phone	Precinct: 60	18 Mo. SOL 1/22/2022	EO SOL 5/4/2022	
Date/Time CV Reported Wed, 10/07/2020 10:56 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Wed, 10/07/2020 10:56 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. DT2 Brendan Owens	04481	920686	JT T/F
2. SGT Tomasz Pulawski	02642	949511	078 PCT
3. DTS James Tobin	4921	934217	CT DIV
4. SGT Michelle Salowski	05452	946212	CT DIV
5. DT1 David Cowan	01558	923710	INT CIS
6. DT3 Richard Schneider	03213	931978	INT CIS

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Christian Rodriguez	03719	937402	114 PCT

Officer(s)	Allegation	Investigator Recommendation
A.DTS James Tobin	Abuse: On July 22, 2020, at § 87(2)(b) in Brooklyn, Detective James Tobin stopped the vehicle in which § 87(2)(b) was an occupant.	
B.DTS James Tobin	Abuse: On July 22, 2020, at § 87(2)(b) in Brooklyn, Detective James Tobin stopped the vehicle in which § 87(2)(b) was an occupant.	
C.DTS James Tobin	Abuse: On July 22, 2020, at § 87(2)(b) in Brooklyn, Detective James Tobin refused to provide his name to § 87(2)(b)	
D.DTS James Tobin	Abuse: On July 22, 2020, at § 87(2)(b) in Brooklyn, Detective James Tobin refused to provide his name to § 87(2)(b)	
E.DTS James Tobin	Abuse: On July 22, 2020, at § 87(2)(b) in Brooklyn, Detective James Tobin refused to provide his shield number to § 87(2)(b)	
F.DTS James Tobin	Abuse: On July 22, 2020, at § 87(2)(b) in Brooklyn, Detective James Tobin refused to provide his shield number to § 87(2)(b)	
G.DTS James Tobin	Abuse: On July 22, 2020, at § 87(2)(b) in Brooklyn, Detective James Tobin questioned § 87(2)(b)	
H.SGT Tomasz Pulawski	Abuse: On July 22, 2020, at § 87(2)(b) in Brooklyn, Lieutenant Tomasz Pulawski refused to provide his name to § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
I.SGT Tomasz Pulawski	Abuse: On July 22, 2020, at § 87(2)(b) in Brooklyn, Lieutenant Tomasz Pulawski refused to provide his shield number to § 87(2)(b)	
J.SGT Tomasz Pulawski	Abuse: On July 22, 2020, at § 87(2)(b) in Brooklyn, Lieutenant Tomasz Pulawski searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	
K.SGT Michelle Salowski	Abuse: On July 22, 2020, at § 87(2)(b) in Brooklyn, Sergeant Michelle Salowski refused to provide her name to § 87(2)(b)	
L.DT1 David Cowan	Off. Language: On July 22, 2020, at § 87(2)(b) in Brooklyn, Detective David Cowan made remarks to § 87(2)(b) based upon age.	
M.DT1 David Cowan	Discourtesy: On July 22, 2020, at § 87(2)(b) in Brooklyn, Detective David Cowan spoke discourteously to § 87(2)(b)	
N.DT1 David Cowan	Off. Language: On July 22, 2020, at § 87(2)(b) in Brooklyn, Detective David Cowan made remarks to § 87(2)(b) based upon religion.	
O.DT1 David Cowan	Discourtesy: On July 22, 2020, at § 87(2)(b) in Brooklyn, Detective David Cowan spoke discourteously to § 87(2)(b)	
P.DT1 David Cowan	Off. Language: On July 22, 2020, at § 87(2)(b) in Brooklyn, Detective David Cowan made remarks to § 87(2)(b) based upon age.	
Q.DT1 David Cowan	Discourtesy: On July 22, 2020, at § 87(2)(b) in Brooklyn, Detective David Cowan spoke discourteously to § 87(2)(b)	
R.DT1 David Cowan	Off. Language: On July 22, 2020, at § 87(2)(b) in Brooklyn, Detective David Cowan made remarks to § 87(2)(b) based upon religion.	
S.DT1 David Cowan	Discourtesy: On July 22, 2020, at § 87(2)(b) in Brooklyn, Detective David Cowan spoke discourteously to § 87(2)(b)	
T.DT1 David Cowan	Discourtesy: On July 22, 2020, at § 87(2)(b) in Brooklyn, Detective David Cowan spoke discourteously to § 87(2)(b)	
U.DT3 Richard Schneider	Off. Language: On July 22, 2020, at § 87(2)(b) in Brooklyn, Detective Richard Schneider made remarks to § 87(2)(b) based upon age.	
V.DT3 Richard Schneider	Discourtesy: On July 22, 2020, at § 87(2)(b) in Brooklyn, Detective Richard Schneider spoke discourteously to § 87(2)(b)	
W.DT3 Richard Schneider	Off. Language: On July 22, 2020, at § 87(2)(b) in Brooklyn, Detective Richard Schneider made remarks to § 87(2)(b) based upon religion.	
X.DT3 Richard Schneider	Discourtesy: On July 22, 2020, at § 87(2)(b) in Brooklyn, Detective Richard Schneider spoke discourteously to § 87(2)(b)	
Y.DTS James Tobin	Abuse: On July 22, 2020, at § 87(2)(b) in Brooklyn, Detective James Tobin detained § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
Z.DTS James Tobin	Abuse: On July 22, 2020, at § 87(2)(b) in Brooklyn, Detective James Tobin detained § 87(2)(b)	
2A.DT2 Brendan Owens	Abuse: On an unknown date in July of 2020, over the phone, Detective Brendan Owens questioned § 87(2)(b)	
2B.DT2 Brendan Owens	Abuse: On an unknown date in July of 2020, over the phone, Detective Brendan Owens questioned § 87(2)(b)	

Case Summary

On October 7, 2020, § 87(2)(b) and § 87(2)(b) each filed this complaint via the CCRB's online website regarding an interaction they had with police officers.

On July 22, 2020, at approximately 4:20 PM, § 87(2)(b) was sitting in the driver's seat of his rental vehicle with his friend, § 87(2)(b) in the passenger seat, outside the NYPD Counterterrorism base parking lot located at § 87(2)(b) in Brooklyn, when Detective James Tobin, of the Counterterrorism Division, stopped the vehicle (**Allegations A and B: Abuse of Authority, § 87(2)(g)**). Detective Tobin allegedly refused to provide his name and shield number to § 87(2)(b) and § 87(2)(b) (**Allegation C-E: Abuse of Authority, § 87(2)(g)**) (**Allegation F: Abuse of Authority, § 87(2)(g)**) and Detective Tobin questioned § 87(2)(b) about the rental car he was driving (**Allegation G: Abuse of Authority, § 87(2)(g)**).

Sergeant Tomasz Pulawski, who was working a Counterterrorism deployment while assigned to the 78th Precinct, approached § 87(2)(b)'s vehicle and § 87(2)(b) requested Sergeant Pulawski's name and shield number, but Sergeant Pulawski allegedly refused to provide this information (**Allegation H and I: Abuse of Authority, § 87(2)(g)**). Sergeant Pulawski allegedly took out a small machine and put it to his ear in an apparent attempt to listen to vibrations or noises coming from § 87(2)(b)'s vehicle (**Allegation J: Abuse of Authority, § 87(2)(g)**).

While § 87(2)(b) and § 87(2)(b) were waiting to be released, additional officers came outside, including Sergeant Michelle Salowski, of the Counterterrorism Division. § 87(2)(b) allegedly asked Sergeant Salowski to provide her name, which she allegedly did not provide (**Allegation K: Abuse of Authority, § 87(2)(g)**).

Several hours after Detective Tobin first encountered the men, Detective David Cowan and Detective Richard Schneider, both of the Criminal Intelligence Section, arrived on scene. § 87(2)(b) informed Detective Cowan and Detective Schneider that he was a confidential informant for the DEA, which Detective Cowan verified with § 87(2)(b)'s handler over the phone. Detective Cowan told the men that they were an odd couple, seemingly because § 87(2)(b) was a young Orthodox Jewish person and § 87(2)(b) was an older Muslim person (**Allegations L, N, P, R: Offensive Language, § 87(2)(g)**) (**Allegations M, O, Q, S: Discourtesy, § 87(2)(g)**).

Detective Cowan allegedly asked § 87(2)(b) "What the fuck are you doing with this kid?" and told him that § 87(2)(b)'s videos "better not fucking end up on YouTube" (**Allegation T: Discourtesy, § 87(2)(g)**). Detective Schneider allegedly asked § 87(2)(b) "What is a 25-year-old Jewish guy doing with a 40-year-old Muslim?" (**Allegation U and W: Offensive Language, § 87(2)(g)**) (**Allegation V and X: Discourtesy, § 87(2)(g)**). § 87(2)(b) and § 87(2)(b) were detained at the scene for approximately three hours before Detective Tobin released them (**Allegation Y and Z: Abuse of Authority, § 87(2)(g)**). No arrests or summonses resulted from this incident.

On an unknown date and time in July of 2020, Detective Brendan Owens, of the Joint Terrorism Task Force, called § 87(2)(b) and § 87(2)(b) and questioned them about this incident (**Allegations AA and AB: Abuse of Authority, § 87(2)(g)**).

There is no body-worn camera (BWC) footage because officers from the Counterterrorism Division and the Criminal Intelligence Section were not assigned BWCs at the time of this incident. BWC videos were received from § 87(2)(b)'s personal BWC, which he wore during the incident. The videos are attached in IAs #23-36 (**BR 10-BR 23**) and are summarized in IA #155 (**BR 24**).

§ 87(2)(b)'s videos were combined into one chronological video, which is attached in IA #235 (BR 25) and is summarized in IA #246 (BR 26). Stationhouse footage from the NYPD Counterterrorism base was not received for this case because the footage had expired by the time the complaint was filed.

Findings and Recommendations

Allegation (A) Abuse of Authority: On July 22, 2020, at § 87(2)(b) in Brooklyn, Detective James Tobin stopped the vehicle in which § 87(2)(b) was an occupant.
Allegation (B) Abuse of Authority: On July 22, 2020, at § 87(2)(b) in Brooklyn, Detective James Tobin stopped the vehicle in which § 87(2)(b) was an occupant.

It is undisputed that § 87(2)(b) was driving a rental vehicle with his friend, § 87(2)(b) in the passenger seat, when he pulled in front of a gated parking lot entrance for an NYPD Counterterrorism facility. Detective Tobin pulled his vehicle next to § 87(2)(b)'s vehicle, asked the men why they were there, and asked them what they were doing. § 87(2)(b) told Detective Tobin he was interested in the Counterterrorism parking lot and § 87(2)(b) activated his personal body-worn camera. Detective Tobin instructed § 87(2)(b) to provide his identification and asked for the contract for the rental vehicle, which § 87(2)(b) provided.

§ 87(2)(b) stated (BR 33) that he and § 87(2)(b) pulled up next to a Best Western Hotel parking lot at § 87(2)(b) because they wanted to do a random check of the hotel for a friend who may visit. Approximately three seconds later, and before § 87(2)(b) could turn into the hotel parking lot, Detective Tobin pulled up in a vehicle and asked the men what they were doing there. § 87(2)(b) stated he was curious about the parking lot Detective Tobin had come out of. § 87(2)(b) did not provide more specific answers to Detective Tobin because he believed that it was none of Detective Tobin's business.

§ 87(2)(b) stated (BR 34) that he and § 87(2)(b) were running errands together when they found themselves in the vicinity of a new hotel that they wanted to check out. When § 87(2)(b)'s vehicle was directly in front of the hotel on the right side of the street, Detective Tobin approached it. There was a gated parking lot with an NYPD sign on it at the dead end of the street, which was directly in front of them. § 87(2)(b) told Detective Tobin that he wanted to see what was going on.

Detective Tobin stated (BR 30) he was standing in the Counterterrorism parking lot when he noticed § 87(2)(b)'s vehicle, which was parked approximately five feet away from and nearly perpendicular to the gantry arm of the Counterterrorism parking lot. The vehicle had passed both the Best Western Hotel and the entrance of the Best Western parking lot and it was in a no-standing zone. Detective Tobin pulled alongside § 87(2)(b)'s vehicle and asked the men if they needed help. The men asked Detective Tobin what went on at the building but would not explain why they wanted to know this, which raised Detective Tobin's concern about a potential threat to the Counterterrorism base. Approximately two to three minutes into his conversation with § 87(2)(b) Detective Tobin requested § 87(2)(b)'s identification because § 87(2)(b) was in a no-standing zone, and because Detective Tobin's suspicions of § 87(2)(b) were raised due to the nature of the location, the questions § 87(2)(b) asked about the Counterterrorism building, § 87(2)(b)'s lack of explanation for why he wanted to know this, and his lack of reason for being there. Detective Tobin stated he could have issued § 87(2)(b) a summons for his vehicle in a no-standing zone, but he used his discretion to not issue one because, although § 87(2)(b) was evasive in the beginning of the incident, as time went on, he became more cooperative.

A Stop Report (**BR 27**) prepared by Detective Tobin stated § 87(2)(b) and § 87(2)(b) were suspected of terrorism and the factors leading to their stop included acting as a lookout and casing the location. The Stop Report also indicated that business cards were offered.

§ 87(2)(b)'s BWC video (**BR 25**) begins after Detective Tobin initiates contact with § 87(2)(b) and § 87(2)(b). At 00:25, § 87(2)(b) asks, "Who are we waiting for?" Detective Tobin responds, "You guys said you were interested in what this place was." § 87(2)(b) says, "The area." Detective Tobin responds, "No, you said specifically this parking lot and this building so I'm gonna get somebody to come out to explain it to you." At 00:50, Detective Tobin tells the men to "hang out for a second." At 01:50 into the video, Detective Tobin tells § 87(2)(b) "You're sitting in front of this gate. I asked you if you needed some help and then you said you're curious about this building or this lot." § 87(2)(b) says, "I didn't say this lot." Detective Tobin says, "You did. I heard you...So, what exactly are you curious about?" § 87(2)(b) says, "What happens here." Detective Tobin instructs § 87(2)(b) to provide his identification.

§ 87(2)(b)'s BWC does not clearly depict if § 87(2)(b)'s vehicle is within a no-standing zone.

In People v. De Bour, 40 N.Y.2d 210 (1976) (**BR 09**), the court held that police officers can stop an individual if there is reasonable suspicion that a particular person has committed, is committing or is about to commit a felony or misdemeanor.

Though Detective Tobin stated that § 87(2)(b)'s vehicle was in a no-standing zone, the positioning of § 87(2)(b)'s vehicle is disputed, and Detective Tobin did not ultimately summons § 87(2)(b) for any such infraction. However, given that § 87(2)(b) acknowledged that § 87(2)(b)'s vehicle was pointed toward and in the immediate vicinity of the entrance of a discreet and secure Counterterrorism parking lot, and that during Detective Tobin's initial conversation with § 87(2)(b) § 87(2)(b) expressed his interest in the Counterterrorism lot and provided evasive answers to Detective Tobin's questions, § 87(2)(g)

§ 87(2)(g)

Allegation (C) Abuse of Authority: On July 22, 2020, at § 87(2)(b) in Brooklyn, Detective James Tobin refused to provide his name to § 87(2)(b)

Allegation (D) Abuse of Authority: On July 22, 2020, at § 87(2)(b) in Brooklyn, Detective James Tobin refused to provide his name to § 87(2)(b)

Allegation (E) Abuse of Authority: On July 22, 2020, at § 87(2)(b) in Brooklyn, Detective James Tobin refused to provide his shield number to § 87(2)(b)

Allegation (F) Abuse of Authority: On July 22, 2020, at § 87(2)(b) in Brooklyn, Detective James Tobin refused to provide his shield number to § 87(2)(b)

§ 87(2)(b) stated that after activating his BWC, he asked Detective Tobin for his name and his shield number. Detective Tobin said § 87(2)(b) would know everything later. Detective Tobin did not provide his name or shield number. § 87(2)(b) asked Detective Tobin who he was, but Detective Tobin did not say his name or shield number.

§ 87(2)(b) stated that when Detective Tobin approached § 87(2)(b)'s vehicle, § 87(2)(b) asked for his name and shield number. Detective Tobin said he would not provide this information. § 87(2)(b) made no mention of him asking Detective Tobin who he was at that point, but at the end of the incident, when Detective Tobin returned § 87(2)(b) and § 87(2)(b)'s

licenses, § 87(2)(b) also asked Detective Tobin, “Can I have your information? Who are you?” but Detective Tobin did not respond and walked away.

Detective Tobin stated that upon approaching § 87(2)(b)'s vehicle, before § 87(2)(b) put on his BWC, he told the men his name was Jim Tobin, stated he was a detective with the NYPD, and provided his shield number as he displayed his physical shield. The men did not request this information from Detective Tobin before he did this.

Upon viewing 00:02 to 00:13 of § 87(2)(b)'s BWC (**BR 11**), Detective Tobin acknowledged hearing § 87(2)(b) ask him for his shield number. Detective Tobin stated that he did not provide his shield number at this point because he did so at the beginning of his interaction and was trying to determine what was going on.

At 02:55 into § 87(2)(b)'s BWC video (**BR 25**), § 87(2)(b) asks Detective Tobin for his shield number and Detective Tobin tells him he will get his information in the end, and after he provides his paperwork. At 36:50 into the video, Detective Tobin approaches § 87(2)(b)'s vehicle and returns the men's documentation. The footage does not depict § 87(2)(b) or § 87(2)(b) requesting Detective Tobin's name or Detective Tobin providing his name prior to the conclusion of the incident.

Given that § 87(2)(b)'s BWC footage begins after Detective Tobin initially approached § 87(2)(b)'s vehicle, which was when Detective Tobin stated he provided his shield number to § 87(2)(b) the investigation was unable to determine whether Detective Tobin provided his shield number to § 87(2)(b) at that time. § 87(2)(g)

§ 87(2)(g) the footage does not depict § 87(2)(b) or § 87(2)(b) requesting Detective Tobin's name in either the beginning or the end of the incident as alleged, § 87(2)(g)

Allegation (G) Abuse of Authority: On July 22, 2020, at § 87(2)(b) in Brooklyn, Detective James Tobin questioned § 87(2)(b)

It is undisputed that Detective Tobin instructed § 87(2)(b) to provide his license and the contract for his rental vehicle. § 87(2)(b) provided multiple vehicle contracts and more than one form of identification to Detective Tobin. Detective Tobin asked § 87(2)(b) questions about the vehicle and its rental contract.

§ 87(2)(b) stated he gave Detective Tobin his United Kingdom passport and his license. Detective Tobin asked § 87(2)(b) if there was anything that he needed to know about and ordered § 87(2)(b) to produce the rental agreement for his vehicle. § 87(2)(b) had three contracts because he had exchanged rental vehicles a few times. Detective Tobin asked § 87(2)(b) why he had multiple contracts and § 87(2)(b) explained he exchanged the vehicle several times. Detective Tobin said that § 87(2)(b) did not appear to have a contract for his vehicle.

§ 87(2)(b) stated that after § 87(2)(b) provided his license to Detective Tobin, Detective Tobin asked whose vehicle the men were in and § 87(2)(b) said it was a rental. Detective Tobin asked § 87(2)(b) for the rental contract, and § 87(2)(b) provided paperwork.

Detective Tobin stated he asked § 87(2)(b) for his vehicle registration and insurance card and

§ 87(2)(b) stated he did not have them. Detective Tobin asked § 87(2)(b) if he had anything else and § 87(2)(b) provided a card, which had a photo of § 87(2)(b) with a thumbprint in red and multiple stars overlaid on top of each other. Based on Detective Tobin's past experiences as a police officer, he believed this to be a sovereign citizen card. § 87(2)(b) did not produce a driver's license at any point during the incident. Detective Tobin asked § 87(2)(b) if the vehicle was a rental and § 87(2)(b) confirmed it was. Detective Tobin told § 87(2)(b) that he must have a rental agreement. § 87(2)(b) pulled down the visor above his head, and 13 rental agreements fell out. Detective Tobin requested the rental agreement for the vehicle for the purpose of verifying who the occupants were, whether the vehicle was stolen, and whether it was in "good standing." § 87(2)(b) provided the 13 rental agreements, none of which were associated with the vehicle he was driving.

At 02:30 into § 87(2)(b)'s BWC footage (BR 25), Detective Tobin requests § 87(2)(b)'s driver's license and registration. § 87(2)(b) says the vehicle is a rental and Detective Tobin says he should have an agreement. At 03:45 into the video, § 87(2)(b) hands documentation to Detective Tobin and Detective Tobin tells him it is not a rental agreement. § 87(2)(b) is holding several documents and Detective Tobin tells him to give him all of it. § 87(2)(b) says, "It's just different cars we exchanged" and Detective Tobin says he will take the whole thing. § 87(2)(b) provides documentation to Detective Tobin. Detective Tobin asks § 87(2)(b) if he is supposed to be driving his vehicle and if any of the paperwork he is providing is going to match up with the car he is driving. Detective Tobin says he is going to run the vehicle and run § 87(2)(b) and asks if there is anything he needs to know. § 87(2)(b) says, "Not that I know of." Detective Tobin asks § 87(2)(b) if his car is legit and § 87(2)(b) says yes. Detective Tobin asks § 87(2)(b) if there is anything in the vehicle he needs to know about and § 87(2)(b) says, "Absolutely not."

In *People v. De Bour* 40 N.Y.2d 210 (BR 09), the court held the common-law right to inquire, is activated by a founded suspicion predicated on specific articulable facts that criminal activity is afoot.

§ 87(2)(g) § 87(2)(b) provided multiple rental agreements for the vehicle he was driving, and that none of them appeared to Detective Tobin to have been associated with § 87(2)(b)'s vehicle. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (H) Abuse of Authority: On July 22, 2020, at § 87(2)(b) in Brooklyn, Lieutenant Tomasz Pulawski refused to provide his name to § 87(2)(b)

Allegation (I) Abuse of Authority: On July 22, 2020, at § 87(2)(b) in Brooklyn, Lieutenant Tomasz Pulawski refused to provide his shield number to § 87(2)(b)

§ 87(2)(b) stated that after Detective Tobin took his documentation and went inside the Counterterrorism building, Sergeant Pulawski began to speak with him, and § 87(2)(b) asked Sergeant Pulawski for his name and shield number, but Sergeant Pulawski did not provide his information and ultimately walked away.

§ 87(2)(b) initially stated he believed § 87(2)(b) asked Sergeant Pulawski for his name, but he changed his mind and said that he did not believe § 87(2)(b) asked for this information.

At 06:05 into § 87(2)(b)'s BWC footage (BR 25), Detective Tobin walks away from § 87(2)(b)

§ 87(2)(b)'s vehicle after § 87(2)(b) provides his documentation. Sergeant Pulawski asks § 87(2)(b) if his vehicle is in his name. § 87(2)(b) says Detective Tobin has all his information and that he does not want to speak with Sergeant Pulawski. At 07:55 into the video, Sergeant Pulawski asks § 87(2)(b) to pull his vehicle up the street, which he does. § 87(2)(b) closes the driver's side window and Sergeant Pulawski walks away. At 09:35, Sergeant Pulawski approaches § 87(2)(b)'s vehicle and § 87(2)(b) opens his driver side window slightly. Sergeant Pulawski asks, "You want to talk like this?" § 87(2)(b) says he does not want to speak with Sergeant Pulawski and Sergeant Pulawski walks away.

§ 87(2)(g) BWC footage capturing Sergeant Pulawski's conversation with § 87(2)(b) during this aspect of the incident does not depict § 87(2)(b) ask Sergeant Pulawski for his name or shield number. § 87(2)(g)

Allegation (J) Abuse of Authority: On July 22, 2020, at § 87(2)(b) in Brooklyn, Lieutenant Tomasz Pulawski searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

While Detective Tobin was in and out of the Counterterrorism building throughout the incident, Sergeant Pulawski was outside of § 87(2)(b)'s vehicle as § 87(2)(b) and § 87(2)(b) were seated inside of it.

§ 87(2)(b) stated that Sergeant Pulawski took out a small machine and put it to his ear to listen for vibrations or noises coming from § 87(2)(b)'s vehicle. Sergeant Pulawski did not enter the vehicle.

§ 87(2)(b) made no mention of Sergeant Pulawski using a machine to listen to § 87(2)(b)'s vehicle.

§ 87(2)(b)'s BWC footage does not capture what is happening outside § 87(2)(b)'s vehicle because § 87(2)(b) is wearing it on his chest as he is seated in the driver's seat.

Sergeant Pulawski stated (**BR 36**) he was not equipped with a machine that would be used to listen to vibrations or noises coming from a vehicle during the incident. However, Sergeant Pulawski explained he was equipped with a RAD pager at the time of the incident, which would be used to detect radiation that could indicate a possible threat of terrorism, such as a bomb. Sergeant Pulawski explained that when working a counterterrorism deployment, as he was on the date of the incident, he would activate his RAD pager at the beginning of his tour, and it would be left on until he completed his tour. Sergeant Pulawski explained that the RAD pager could be taken off his gun belt and held up to a vehicle for the purposes of detecting radiation, but did not recall if he did this to § 87(2)(b)'s vehicle.

Given that Sergeant Pulawski stated that he did not recall whether he used his RAD pager on § 87(2)(b)'s vehicle, § 87(2)(g)

Allegation (K) Abuse of Authority: On July 22, 2020, at § 87(2)(b) in Brooklyn, Sergeant Michelle Salowski refused to provide her name to § 87(2)(b)

§ 87(2)(b) stated that after § 87(2)(b) asked Sergeant Salowski how long they would have to

wait, § 87(2)(b) asked her to identify herself. Sergeant Salowski replied that she would provide her information in the end. At the end of the incident, after Detective Tobin returned § 87(2)(b)'s and § 87(2)(b)'s documentation, § 87(2)(b) asked Sergeant Salowski, "Can you tell me who you are? I'd like to know your name," Sergeant Salowski responded, "No, it's not important" and walked away. Sergeant Salowski did not provide her name to § 87(2)(b) at any point during the incident.

§ 87(2)(b) made no mention of § 87(2)(b) asking Sergeant Salowski for her name at any point during the incident.

Sergeant Salowski stated (BR 35) that § 87(2)(b) did not ask her to identify herself and she did not tell him that she would provide her information at the end of the incident. Sergeant Salowski denied refusing to provide her name to § 87(2)(b) upon his request for it.

At 23:25 into § 87(2)(b)'s BWC video (BR 25), Sergeant Salowski is depicted for the first time. § 87(2)(b) says, "Long time already. It's already a few minutes past." Sergeant Salowski says it is going to be a few more minutes. § 87(2)(b) asks how many and asks what they are waiting for. Sergeant Salowski tells § 87(2)(b) she knows as much as he does. At 36:50 into the video, Detective Tobin returns § 87(2)(b)'s and § 87(2)(b)'s documents. At 38:05 into the video, § 87(2)(b) drives away. § 87(2)(b) does not request Sergeant Salowski's name at any point during this portion of the video.

§ 87(2)(g) video footage from the moment Detective Tobin returns § 87(2)(b) and § 87(2)(b)'s documents to the moment § 87(2)(b) drives away does not depict § 87(2)(b)'s request Sergeant Salowski's name as alleged, § 87(2)(g)

Allegation (L) Offensive Language: On July 22, 2020, at § 87(2)(b) in Brooklyn, Detective David Cowan made remarks to § 87(2)(b) based upon age.

Allegation (M) Discourtesy: On July 22, 2020, at § 87(2)(b) in Brooklyn, Detective David Cowan spoke discourteously to § 87(2)(b)

Allegation (N) Offensive Language: On July 22, 2020, at § 87(2)(b) in Brooklyn, Detective David Cowan made remarks to § 87(2)(b) based upon religion.

Allegation (O) Discourtesy: On July 22, 2020, at § 87(2)(b) in Brooklyn, Detective David Cowan spoke discourteously to § 87(2)(b)

Allegation (P) Offensive Language: On July 22, 2020, at § 87(2)(b) in Brooklyn, Detective David Cowan made remarks to § 87(2)(b) based upon age.

Allegation (Q) Discourtesy: On July 22, 2020, at § 87(2)(b) in Brooklyn, Detective David Cowan spoke discourteously to § 87(2)(b)

Allegation (R) Offensive Language: On July 22, 2020, at § 87(2)(b) in Brooklyn, Detective David Cowan made remarks to § 87(2)(b) based upon religion.

Allegation (S) Discourtesy: On July 22, 2020, at § 87(2)(b) in Brooklyn, Detective David Cowan spoke discourteously to § 87(2)(b)

§ 87(2)(b) stated that when he was speaking with Detective Cowan separately from § 87(2)(b) Detective Cowan stated that § 87(2)(b) and § 87(2)(b) were an "odd couple" because one was a young Orthodox Jewish person and the other was an older Muslim person.

§ 87(2)(b) stated that when Detective Cowan and Detective Schneider arrived on scene, Detective Cowan told him and § 87(2)(b) they were an odd couple.

Detective Cowan stated (BR 05) did not believe he said § 87(2)(b) and § 87(2)(b) were an odd couple. Detective Cowan recalled § 87(2)(b) was white and he inferred he was Jewish because he was wearing traditional Hasidic garb. Detective Cowan recalled § 87(2)(b) was wearing regular clothes and appeared Hispanic, but his name indicated that he may have been Middle Eastern. Detective Cowan did not recall making any reference to § 87(2)(b)s and § 87(2)(b)s religions or ages.

At 24:15 into § 87(2)(b)s BWC footage (BR 25), Detective Cowan approaches § 87(2)(b)s vehicle. At 24:30 into the footage, Detective Cowan tells the men they are an odd couple and asks if they have seen Odd Couple from the 70s.

Upon viewing 00:12 to 00:31 of one of § 87(2)(b)s BWC videos (BR 18), Detective Cowan acknowledged hearing himself refer to the men as an odd couple. Detective Cowan stated he did not know what he was referring to when he made this statement. Detective Cowan explained he had just walked up to the car when he said this and he was making conversation to gauge the men's responses to him. Detective Cowan stated he did not refer to the men as an odd couple in a disparaging way toward their races, ethnicities, or religions. Detective Cowan stated that he was referring to a television show about two men who live together and have awkward interactions with each other. In Detective Cowan's vernacular, odd meant awkward. Detective Cowan explained odd could mean two people who look like they do not belong together and provided examples of a tall person and a short person, a young person and an old person, two people with different styles of dress, or two people with different tastes in music.

§ 87(2)(g) Detective Cowan testified that he was referencing a television show to when he told § 87(2)(b) and § 87(2)(b) they were an odd couple, the investigation was unable to determine by a preponderance of the evidence whether this statement was intended to be a reference to § 87(2)(b) and § 87(2)(b)s ages and religions as alleged, or a television show as attested to by Detective Cowan. § 87(2)(g)

Allegation (T) Discourtesy: On July 22, 2020, at § 87(2)(b) in Brooklyn, Detective David Cowan spoke discourteously to § 87(2)(b)

Allegation (U) Offensive Language: On July 22, 2020, at § 87(2)(b) in Brooklyn, Detective Richard Schneider made remarks to § 87(2)(b) based upon age.

Allegation (V) Discourtesy: On July 22, 2020, at § 87(2)(b) in Brooklyn, Detective Richard Schneider spoke discourteously to § 87(2)(b)

Allegation (W) Offensive Language: On July 22, 2020, at § 87(2)(b) in Brooklyn, Detective Richard Schneider made remarks to § 87(2)(b) based upon religion.

Allegation (X) Discourtesy: On July 22, 2020, at § 87(2)(b) in Brooklyn, Detective Richard Schneider spoke discourteously to § 87(2)(b)

It is undisputed that when Detective Cowan and Detective Schneider arrived, Detective Cowan spoke with § 87(2)(b) and Detective Schneider spoke with § 87(2)(b) separately from each other.

§ 87(2)(b) stated that while speaking with Detective Cowan, Detective Cowan asked him, "What the fuck are you doing with this kid?" three times. § 87(2)(b) asked Detective Cowan what he meant and said that they were friends and had not been doing anything. Detective Cowan also told § 87(2)(b) that § 87(2)(b) needed to delete all his BWC videos and stated that they "better not fucking end up on YouTube."

§ 87(2)(b) stated Detective Schneider spoke with him alone outside § 87(2)(b)s

vehicle. Detective Schneider asked § 87(2)(b) “What is a 25-year-old Jewish guy doing with a 40-year-old Muslim?”

Detective Cowan denied using any profanity while speaking with § 87(2)(b) and he specifically denied stating, “What the fuck are you doing with this kid.” Detective Cowan did not recall telling § 87(2)(b) that § 87(2)(b) needed to delete his body-worn camera videos and he did not recall telling him that § 87(2)(b) s videos “better not fucking end up on YouTube.”

Detective Schneider stated (BR 06) he did not recall any officers using profanity during the incident. Detective Schneider did not recall making any reference to § 87(2)(b) s and § 87(2)(b) s religions but stated he may have referred to the men’s age difference. Detective Schneider explained that in his experience as a police officer, people with the age gap, such as the one between § 87(2)(b) and § 87(2)(b) do not normally hang out as friends. Detective Schneider may have mentioned this age difference when he explained to § 87(2)(b) why the officers may have stopped him. Detective Schneider did not recall what he may have said to § 87(2)(b) in reference to the age difference.

At 30:55 into § 87(2)(b) s BWC footage (BR 25), Detective Schneider asks § 87(2)(b) to step out of the vehicle, which he does, and briefly speaks with him outside. At 33:15 into the footage, § 87(2)(b) returns to his vehicle. The footage does not depict Detective Schneider ask § 87(2)(b) “What is a 25-year-old Jewish guy doing with a 40-year-old Muslim” at any point during this conversation. The footage also does not depict § 87(2)(b) s conversation with Detective Cowan because § 87(2)(b) was not present for this.

§ 87(2)(g)

§ 87(2)(g) BWC footage of Detective Schneider’s conversation with § 87(2)(b) outside the vehicle does not depict him making the statement, “What is a 25-year-old Jewish guy doing with a 40-year-old Muslim,” § 87(2)(g)

Allegation (Y) Abuse of Authority: On July 22, 2020, at § 87(2)(b) in Brooklyn, Detective James Tobin detained § 87(2)(b)
Allegation (Z) Abuse of Authority: On July 22, 2020, at § 87(2)(b) in Brooklyn, Detective James Tobin detained § 87(2)(b)

It is undisputed that when Detective Tobin encountered § 87(2)(b) and § 87(2)(b) he obtained identification from both of the men and more than one vehicle rental agreement from § 87(2)(b). Detective Tobin requested Intelligence Bureau detectives to respond, and Detective Cowan and Detective Schneider arrived at the scene. Detective Cowan and Detective Schneider spoke with Counterterrorism officers and then briefly spoke with § 87(2)(b) and § 87(2)(b) separately. Detective Tobin returned § 87(2)(b) s and § 87(2)(b) s documentation and § 87(2)(b) and § 87(2)(b) left the scene without being arrested or summonsed.

§ 87(2)(b) stated that approximately three to four hours after Detective Tobin initiated contact with § 87(2)(b) and § 87(2)(b) Detective Cowan and Detective Schneider arrived. Detective Schneider asked § 87(2)(b) who he was, why he was there, and why he was with § 87(2)(b). Approximately 10 minutes after Detective Cowan and Detective Schneider arrived, they

left the scene. Shortly after, Detective Tobin told § 87(2)(b) and § 87(2)(b) that they could leave.

§ 87(2)(b) stated that approximately three hours after the incident began, Detective Cowan and Detective Schneider spoke with § 87(2)(b) and § 87(2)(b) separately outside § 87(2)(b)'s vehicle. § 87(2)(b) and § 87(2)(b) returned to their vehicle, Detective Tobin returned their identifications, and § 87(2)(b) and § 87(2)(b) left the scene.

Detective Tobin stated that upon observing § 87(2)(b)'s vehicle, which was in a no-standing zone, Detective Tobin became concerned that § 87(2)(b) and § 87(2)(b) could be involved in an act of vandalism, terrorism, or nothing, and determining this was the point of initiating his interaction with them. Within 30 seconds of encountering § 87(2)(b) and § 87(2)(b) Detective Tobin decided to call the Intelligence Bureau because of the demeanor of the men, the probing questions § 87(2)(b) asked Detective Tobin regarding the facility, and the evasive answers § 87(2)(b) gave in response to Detective Tobin's questions. Detective Tobin stated that given the nature of the Counterterrorism building, the nondescript location of it, the activities that occurred inside, and recent civil unrest, he requested Intelligence detectives to respond because they had the ability to look into the situation more than Detective Tobin could.

Intelligence detectives responded approximately one hour after Detective Tobin called them. Prior to the Intelligence detectives' arrival, Detective Tobin's investigation into § 87(2)(b) and § 87(2)(b) yielded nothing notable. The Intelligence detectives did their own research and conducted their interviews of § 87(2)(b) and § 87(2)(b) which Detective Tobin was not present for or involved in.

Detective Tobin was not aware of how the incident ultimately ended or how § 87(2)(b) and § 87(2)(b) were let go, but he stated that from the moment he initiated contact with them to the moment Detective Tobin was no longer involved with them, approximately two to three hours had passed. Detective Tobin stated that this timeline was necessary because it took a while for the Intelligence detectives to respond, and once they arrived, the officers at the scene had to bring them up to speed. The Intelligence Detectives then they did their own investigation.

Detective Cowan and Detective Schneider stated they arrived on scene at 6:05 PM and they spoke with Counterterrorism officers, who informed them that § 87(2)(b) and § 87(2)(b) attempted to gain entry to the facility. Detective Cowan and Detective Schneider both stated that they would have responded to the incident location even if § 87(2)(b) and § 87(2)(b) were not present since the physical presence of the men was not required for them to do their investigation.

Detective Schneider stated the Counterterrorism officers did not tell him and Detective Cowan that they were holding § 87(2)(b) and § 87(2)(b) for the Intelligence Bureau's investigation. Detective Schneider did not recall asking Counterterrorism to hold the men at the incident location at any point. After speaking with § 87(2)(b) and § 87(2)(b) Detective Schneider and Detective Cowan determined they were not a terroristic threat, so they left the scene. Detective Schneider stated it was not his and Detective Cowan's decision to release § 87(2)(b) and § 87(2)(b) because they did not initiate their stop.

Detective Cowan stated that often times, he would arrive to these types of jobs after the incident had concluded, but since § 87(2)(b) and § 87(2)(b) were still on scene, Detective Cowan and Detective Schneider spoke with them. Detective Cowan did not recall if the officers informed him the men had been stopped or if they were told to wait for him and Detective Schneider. Detective Cowan did not know how the incident ended and believed that the Counterterrorism officers

handled everything from start to finish. Detective Cowan did not recall if it was his decision to release the men.

In Rodriguez v. United States, 575 U.S. 348 (BR 31), the court held that police stop exceeding the time needed to handle the matter for which the stop was made violates the United States Constitution's shield against unreasonable seizures.

Detective Tobin cited two reasons for requesting § 87(2)(b)'s documentation at the beginning of their encounter. The first being that § 87(2)(b)'s vehicle was in a no-standing zone, and the second being that Detective Tobin suspected § 87(2)(b) and § 87(2)(b) of potentially engaging in an act of vandalism or terrorism at the Counterterrorism facility. Although the initial placement of § 87(2)(b)'s vehicle is disputed, even if § 87(2)(b) was parked in a no-standing zone, a timeline of two to three hours was longer than the length of time it would ordinarily take to write any such summons, which Detective Tobin ultimately did not do. Therefore, Detective Tobin's testimony that § 87(2)(b)'s vehicle was in a no-standing zone did not justify the length of time § 87(2)(b) and § 87(2)(b) were held at the scene.

Furthermore, Detective Tobin requested Intelligence officers to respond as part of his investigation into his suspicion that § 87(2)(b) and § 87(2)(b) were about to commit an act of vandalism or terrorism because they would have been able to look into the situation more than Detective Tobin could. Detective Tobin stated that the length of his encounter with § 87(2)(b) and § 87(2)(b) was necessary for Intelligence officers to conduct their investigation into § 87(2)(b) and § 87(2)(b). However, Detective Schneider and Detective Cowan consistently stated that not only was the presence of the men not required for them to complete their investigation, but it was also not uncommon for them to respond to these types of jobs after an incident had already concluded.

Moreover, Detective Tobin's investigation into § 87(2)(b) and § 87(2)(b) prior to Detective Schneider's and Detective Cowan's arrival did not yield anything notable, and the investigatory steps taken by Detective Schneider and Detective Cowan, namely, interviewing § 87(2)(b) and § 87(2)(b) were no different than the steps taken by Detective Tobin prior to their arrival.

§ 87(2)(g)

Allegation (AA) Abuse of Authority: On an unknown date in July of 2020, over the phone, Detective Brendan Owens questioned § 87(2)(b).

Allegation (AB) Abuse of Authority: On an unknown date in July of 2020, over the phone, Detective Brendan Owens questioned § 87(2)(b).

§ 87(2)(b) stated that about a week and a half following the incident, he received a phone call from someone who asked why he had been at the incident location, what his occupation was, what level of education he had, and other personal questions. § 87(2)(b) said that he felt he was being harassed. This person told § 87(2)(b) to have a nice day and hung up. § 87(2)(b) immediately called him back and asked how long officers were going to continue to harass him. The person said that he had just been following up as a "courtesy call" and that he would not call any more.

§ 87(2)(b) stated that either on the date of the incident or the following day, he received a phone call from someone who said he was following up on the incident. The person asked why § 87(2)(b) had been at the incident location, where he had been heading, how he knew § 87(2)(b) how long they had been friends, and other questions that the officers on scene had already asked him.

After about 20 to 25 minutes, the person thanked § 87(2)(b) and hung up.

Detective Owens testified that he was assigned to interview § 87(2)(b) and § 87(2)(b) over the phone sometime after the incident because they had parked their vehicle near a sensitive location.

In People v. De Bour, 40 N.Y.2d 210 (1976) (BR 09), the court held that the minimal intrusion of approaching to request information is permissible when there is some objective credible reason for that interference not necessarily indicative of criminality.

§ 87(2)(g) that § 87(2)(b) and § 87(2)(b) had been involved in an incident with officers outside of the NYPD Counterterrorism base only days before receiving a call from Detective Owens, § 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR 03).
- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR 04).
- Detective Tobin has been a member-of-service for 18 years and has been a subject in one complaint and one allegation, which was not substantiated. § 87(2)(g)
- Sergeant Pulawski has been a member-of-service for 11 years and has been a subject in three CCRB complaints and eight allegations.
 - 201607162 involved substantiated allegations of frisk, search of person, vehicle search, for which the Board recommended formalized training and the NYPD did not impose discipline.
 - § 87(2)(g)
- Sergeant Salowski has been a member of service for 14 years and has been a subject in one CCRB complaint and one allegation, which was not substantiated. § 87(2)(g)
- Detective Cowan has been a member of service for 22 years and has been a subject in 10 CCRB complaints and 21 allegations.
 - 201203262 involved substantiated allegations of frisk, search of person, and stop, for which Detective Cowan was found not guilty at APU trial.
 - § 87(2)(g)
- Detective Schneider has been a member of service for 19 years and has been a subject in seven CCRB complaints and six allegations, none of which were substantiated. § 87(2)(g)
- Detective Owens has been a member of service for 24 years and has been a subject in 11 CCRB complaints and 16 allegations.
 - 200008906 involves substantiated allegations of frisk and/or search and vehicle search, for which he received Command Discipline.
 - § 87(2)(g)

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.

- As of February 15, 2022, a Notice of Claim had not been filed in regard to this incident (**BR 32**).

- § 87(2)(b) [Redacted]
- § 87(2)(b) [Redacted]

Squad: 14

Investigator:	<u>Inv. Dean</u>	<u>Inv. Dean</u>	<u>3/9/22</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Cassandra Fenkel</u>	<u>IM Cassandra Fenkel</u>	<u>3/11/2022</u>
	Signature	Print Title & Name	Date

Reviewer:	<u></u>	<u></u>	<u></u>
	Signature	Print Title & Name	Date